Tucker Ellis LLP

# Labor & Employment

## Overview

Employers call upon the Tucker Ellis Labor & Employment Group to resolve the most pressing issues they face. From achieving favorable results in high-stakes litigation to providing solutions for employers facing a dynamic and complex landscape of employment laws, our labor and employment team serves as a go-to resource for employers of all sizes in multiple industries throughout the United States.

At Tucker Ellis, we realize that conducting business today is more complicated than ever. When it comes to your workforce, our lawyers provide innovative and practical solutions and representation so that you can focus on what you do best: running your business effectively.

### AREAS OF LABOR & EMPLOYMENT EMPHASIS

### EMPLOYMENT LITIGATION

The Tucker Ellis Labor & Employment Group provides aggressive and cost-effective representation for employers in all types of employment-related litigation. Our attorneys manage cases ranging from single-plaintiff to large-scale class actions and other "bet-the-company" cases throughout the country, with a lengthy record of achieving early dismissal, defeating class certification, and positioning cases to resolve favorably. And, as experienced trial lawyers, we routinely take cases through—and win—at trial, securing favorable verdicts from judges and juries and prevailing before state and federal agencies, including the Equal Employment Opportunity Commission (EEOC), Department of Labor (DOL), and Occupational Safety and Health Administration (OSHA). While the types of cases we handle vary in scope, what stays constant is our laser-like focus on concluding the matter as efficiently and favorably as possible.

### EMPLOYMENT COUNSELING

Because each employer is unique, a one-size-fits-all approach to employment issues is rarely viable. Our team understands our clients' businesses and tailors our advice to their unique employment-related challenges. We counsel employers—and train their employees, managers, and human resources personnel—on compliance with the myriad and ever-changing laws and regulations in the jurisdictions in which they operate. This includes advising on compliance with various federal and state regulations (FMLA, ADA, FLSA, Title VII); guiding our clients through plant closings and reductions in force; preparing employment,

arbitration, and restrictive covenant agreements; drafting employment handbooks, job descriptions, and employment applications; drafting and negotiating severance packages; advising on the benefits and risks of the use of AI in the workplace, including compliance with emerging regulation on AI use; and developing all types of personnel policies, including those for leaves of absence, drug and alcohol testing, employee discipline, privacy issues, and pay equity.

**MERGERS & ACQUISITIONS/DUE DILIGENCE SUPPORT**

Our labor and employment attorneys provide timely due diligence support in mergers and acquisitions and other corporate transactions. Our work includes drafting employment contracts and restrictive covenant agreements; evaluating wage and hour compliance and benefit programs for target companies; and providing other advice throughout the diligence process to ensure employment law compliance.

**RESTRICTIVE COVENANTS/TRADE SECRETS**

Tucker Ellis works hand-in-glove with companies to protect their intellectual capital, trade secrets, and confidential business information. We partner with employers to ensure they have appropriate agreements and policies that will survive judicial scrutiny in the various jurisdictions in which they operate. We also move swiftly to protect our clients' rights in court in temporary restraining order and preliminary injunction hearings—and when our clients are confronted with these types of claims, we defend them vigorously so that the company can move forward with its business.

**WAGE AND HOUR LAW**

Our labor and employment attorneys have managed hundreds of federal and state wage and hour class and collective actions throughout the country. We have a successful track record of defeating certification, prevailing on the merits, and reaching favorable resolutions, including through working with the country's leading mediators. Our wage and hour team also partners with companies to evaluate the classification status of their workers and defends companies in DOL and state-level audits alleging misclassification. We have particular expertise in counseling on compliance with California wage and hour laws and regulations.

**LABOR/MANAGEMENT RELATIONS**

Our labor and employment attorneys have deep experience in management-union matters. We work regularly with clients to provide proactive training and counseling to minimize the chances of union activity. We support employers throughout corporate campaigns and when

they are confronted with union organizing efforts. For our clients with represented employees, we assist in collective bargaining negotiations, provide guidance on the complex issues associated with union-bargaining obligations, defend against unfair labor practice charges, and manage proceedings before the National Labor Relations Board.

### EMPLOYEE PRIVACY

Claims alleging violations of employee privacy obligations have exploded in recent years. Our labor and employment attorneys work closely with attorneys in our Class Action Litigation and Privacy, Data Security, and AI practices to defend and counsel employers in the areas of biometric information, including managing class action litigation brought under the Illinois Biometric Information Privacy Act; genetic information (under state and federal law); video and audio and other employee monitoring tools; and other similar employee privacy areas.

## Experience

### REPRESENTATIVE EXPERIENCE

### EMPLOYMENT LITIGATION

- Secured a full defense verdict in a jury trial for a major pharmacy retailer on multi-plaintiff claims of race discrimination
- Obtained a defense verdict in a jury trial for a community college district against discrimination, harassment, retaliation, and other claims
- Secured a mistrial in a discrimination and retaliation case seeking multiple millions of dollars in damages
- Defeated class certification involving invasion of privacy and related claims against a major retailer
- Obtained summary judgment dismissal on behalf of defendants in multiple employment class actions, multi-plaintiff, and single-plaintiff matters
- Oversee the national defense of a Fortune-50 beverage company against discrimination, FMLA, and other actions
- Successful defense against EEOC actions, including pattern and practice allegations
- Successful appeals in multiple state and federal appellate courts in employment matters

### EMPLOYMENT COUNSELING

- Serve as adjunct in-house counsel and outside general counsel for multiple companies' legal departments
- Prepare drug and alcohol testing policies for a national employer operating in multiple states and localities

- Conducted multiple investigations for major companies involving senior-level executives accused of harassment, retaliation, and other misconduct for public companies, large private companies, and professional and collegiate sports teams/programs
- Draft CEO, CFO, and other senior executive employment contracts, employment handbooks and leave policies, and telework policies
- Advised a large private retail employer on the drafting of a new social media policy
- Assist companies in harassment and discrimination training programs

**MERGERS & ACQUISITIONS/DUE DILIGENCE SUPPORT**

- Audit employment policies for target companies in multiple acquisitions
- Prepare employment agreements for key executives in buyer and seller representations

**RESTRICTIVE COVENANTS/TRADE SECRETS**

- Successfully prosecuted multiple trade secret theft cases in multiple federal courts, resulting in substantial settlements for an internationally prominent paper company
- Secured a temporary restraining order in Northern District of Illinois federal court against a former co-owner and executive of a company for violations of restrictive covenants
- Defense of multiple nationwide companies and individuals against claims alleging violations of restrictive covenants and state and federal trade secret laws

**WAGE AND HOUR LAW**

- Defeated class and collective action certification in multiple cases involving alleged off-the-clock claims in the communications, retail, restaurant, healthcare, and other industries
- Successfully represented employers in class and collective actions raising misclassification claims in finance, healthcare, retail, and other industries
- Obtained dismissal and summary judgment in class and collective wage and hour lawsuits

**LABOR/MANAGEMENT RELATIONS**

- Successfully defended multiple employers in union arbitrations
- Defended a major manufacturing company in an eight-week NLRB trial
- Represented an aerospace company throughout multiple union campaign and election matters
- Defense of multiple companies against unfair labor charges

**EMPLOYEE PRIVACY**

- Defended more than 20 class actions brought under the Illinois Biometric Information Privacy Act (BIPA) in state and federal courts
- Counsel a national employer on compliance with the Illinois Genetic Information Privacy Act